

**REMARKS**

Claims 7-11 are pending in the present application and is herein amended.

**Double Patenting**

Claim seven is rejected for nonstatutory obviousness-type double patenting over claim 1 of U.S. Patent No. 6,658,589. Applicant respectfully submits a terminal disclaimer herewith to obviate the double patenting rejection.

**Rejections Under 35 U.S.C. §103**

It is noted that Applicant has overcome the previous rejection of claim 7 under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 5,970,488 to Crowe et al. Claims 7-11 are now rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,499,367 to Bamford et al. (hereinafter "Bamford") in view of U.S. Patent No. 5,970,488 to Crowe et al. (hereinafter "Crowe"). Claim 7 which is representative in part of the other rejected claims recites:

7. In a computer system having a plurality of nodes, each node having access to a shared common database and also having local storage, a method of performing a backup operation to backup said shared database comprising:
  - providing a local redo log in local storage for said node, said node including information regarding data in said shared common database;
  - selecting at least one node of said plurality of nodes to perform said backup operation to backup said information regarding data in said shared common database included in said node;**
  - obtaining information regarding a directory location of said local redo log for said at least one node;
  - setting said local redo log to be read/write accessible by said selected at least one node; and
  - backing up data in said shared common database by accessing data in said shared common database and also in said local redo log to provide backup data. (emphasis added.)**

The Examiner admitted that "Bamford does not teach selecting a node to perform backup operations and backing up data in said node and said shared common database by accessing data in said node and said shared common database and also in said local redo log to provide backup

data.” Office Action, page 4, lines 17-20. The Examiner then erroneously asserted that “Crowe teaches selecting a node to perform backup operations and backing up data in said node and said shared common database by accessing data in said node and said shared common database and also in said local redo log to provide backup data. (column 2 lines 19-28, column 10-lines 57 – column 11 line 27, column 11 lines 53-65, column 12 lines 52-62 wherein a copy of the database is stored in each machine and an updated table list is stored with an updated record list to track and access copies of the database.)” Office Action, page 4, line 21 – page 5, line 5. Contrary to the Examiner’s assertion, the cited portions of Crowe describe the creation and use of an updated table list and an updated record list associated with each table. See Fig. 3, col. 10, line 57 – col. 11 line 19. As previously (successfully) argued, Crowe’s method of updating distributed data does not teach or suggest anything about backing up a shared common database, much less anything about a redo log for backing up a shared data base as Applicant particularly claims. The updated table list and updated record list of Crowe are used for maintaining consistency among complete copies of a database stored on each node (col. 2, lines 19 – 28), not for backing up data, and more particularly not for **“selecting at least one node of said plurality of nodes to perform backup operations”** and **“backing up data in said shared common database”** as claimed.

The Examiner asserted that “[i]t would have been obvious at the time of the invention for one of ordinary skill in the art to combine Bamford’s method of providing a log system to clients in a system that tracks information in a central database with Crowe’s method of storing a copy of a database in a plurality of nodes for backup purposes. This gives the user the advantage of providing backup operations in Bamford’s method in addition to recovery process to respond to failures in the system. The motivation for doing so would be [to] speed up an updated process and reduce the cost of maintaining copies of data in a database system.” Office Action, page 5, lines 6-13. Applicant respectfully submits that not only does such a combination not include all of the claimed features of Applicant’s invention as discussed herein, but such a combination would teach away from Applicant’s invention by providing a system with a central database in addition to a copy of the central database on each node. By requiring a copy of each database distributed on each node, a combination of Crowe with Bamford would necessarily retard the

operation of Bamford's method which by itself only requires a log associated with a subset of clients. Therefore, Applicant submits that no combination of Crowe and Bamford teaches or suggests each and every element of Applicant's claims and further, that persons having ordinary skill in the art would not be motivated to combine and modify Crowe and Bamford to arrive at Applicant's claimed invention.

Applicant submits that even if a combination of Crowe and Bamford could somehow be construed to teach modification so as to arrive at each and every element of Applicant's invention as claimed, persons having ordinary skill in the art would not be motivated to make such combination and modification without the benefit of improper hindsight in view of Applicant's disclosure.

Since no combination of Bamford and Crowe teaches or suggests each and every element of claims 7, 8, 9, 10 or 11, and since persons having ordinary skill in the art would not be motivated to combine and modify Bamford and Crowe without using improper hindsight, Applicant respectfully submits that the rejection of claims 7-11 under 35 U.S.C. §103(a) is improper and should be withdrawn. Reconsideration is respectfully requested.

**CONCLUSION**

In view of the amendments and remarks set forth above, Applicant respectfully submits that the pending claims are patentably distinct and in condition for allowance. Authorization is hereby given to charge deposit account 50-2896 in connection with any fees or extension of time or any other fee that may be necessary to permit entry of this response.

The Examiner is invited and encouraged to telephone the undersigned with any concerns or requests in furtherance of the prosecution of the present application.

Respectfully submitted,

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